

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 28, 2011
POSITION: Oppose
SPONSOR: California Professional Firefighters

BILL NUMBER: SB 457
AUTHOR: R. Calderon
RELATED BILLS: SB 863

BILL SUMMARY: Workers' Compensation: Liens

This bill would allow for a lien in excess of the Official Medical Fee Schedule established by the Department of Industrial Relations (DIR), Division of Workers' Compensation, for purposes of Workers' Compensation reimbursement to be made, thereby providing reimbursement of benefit costs incurred or services provided by a health care service plan, group disability policy, a self-insured employee welfare benefit plan, or hospital service contract. These provisions would apply to an injury or illness that is treated first and later discovered to be related to employment.

FISCAL SUMMARY

By notwithstanding existing law which requires medical reimbursement based on the fee schedule established by DIR, this bill would likely result in additional workers' compensation costs to local government and the state as the circumstances related to a "rebuttable presumption" primarily relate to a fire fighter or law enforcement officer. The actual impact is unknown but on a case-by-case basis could increase the cost of treatment, and subsequent reimbursement, by as much as \$300,000 per incident.

The DIR indicates that the costs to implement the provisions of this measure related the establishment of a lien based on actual medical services rather than the existing fee schedule would be minor and absorbable.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the Original version include the following significant amendments which do not change our position:

- Specify that reimbursement be made for services provided, rather than only for benefits paid.
- Specify that statutory changes made by this measure do not modify the rights or obligations of (1) health care providers to file a lien, (2) a payor to conduct utilization review, or (3) compliance with statutory requirements related to types of liens allowed.

COMMENTS

Finance is opposed to this bill because it could result in increased workers' compensation costs for both state and local governments, including General Fund costs. In addition, these costs would create an inequity between reimbursement of benefit costs based on when the illness or injury is identified as being work related.

Existing law establishes a system of workers' compensation that provides benefits to employees for injuries or illnesses arising out of, or in the course of, employment. The Division of Workers' Compensation is required to adopt an Official Medical Fee Schedule that establishes reasonable maximum medical fees for medical services. Existing law permits the Workers' Compensation Appeal Board (Board) to determine and

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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

R. Calderon

June 28, 2011

SB 457

COMMENTS (continued)

allow liens against any sum paid as compensation for self-procured medical services when it is later determined that the employer should have paid for the illness or injury as part of the employees workers' compensation benefits because the illness or injury is directly related to an individual's employment. Under existing law if the cost of the medical services provided are greater than the allowable compensation per the Official Medical Fee Schedule these liens are capped at the lower level.

This bill would allow for a lien in excess of the Official Medical Fee Schedule established by the Department of Industrial Relations (DIR), Division of Workers' Compensation, for purposes of Workers' Compensation reimbursement to be made, thereby providing full reimbursement of benefit costs incurred or services provided by a health care service plan, group disability policy, a self-insured employee welfare benefit plan, or hospital service contract. These provisions would apply to an injury or illness that is treated first and later discovered to be related to employment.

The intent of this bill is to address a specific issue, primarily affecting firefighters and law enforcement officers, who suffer from an illness such as heart trouble or pneumonia frequently requiring immediate hospitalization. In these situations the individuals are treated under their existing health benefits (outside the workers' compensation system). Unique to these individuals, certain illnesses are considered to be related to their employment as a "rebuttable presumption" that the illness was suffered as a result of their occupation. In these situations, the medical service provider (insurer) may seek a lien from the Board to be reimbursed under the workers' compensation system for the cost of the treatment. These reimbursements are limited to the fee schedule established by the DIR.

By notwithstanding the provisions of existing law that sets this fee schedule, this bill would effectively increase the maximum allowable reimbursement to these medical service providers through the lien process resulting in increased cost to the workers' compensation system.

We note SB 863 (Lieu) of 2011, which amends lien procedures in the workers' compensation system, also amends Labor Code section 4903.1 which could lead to chaptering issues.

		SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
9901/Var Depts	SO	No	-----	See Fiscal Summary				-----	0001
9210/LocGovtFin	SO	No	-----	See Fiscal Summary				-----	0001
7350/DIR	SO	No	-----	No/Minor Fiscal Impact				-----	0223
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0223	Workers' Comp Administration Revolv Fund								